

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

July 17, 2019

MOTOR CARRIER MATTER

☐

DOCKET NO.

2018-364-WS

UTILITIES MATTER

☒

ORDER NO.

2019-523

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2018-364-WS - Stephen and Beverly Noller and Michael and Nancy Halwig, Complainants/Petitioners v. Daufuskie Island Utility Company, Incorporated, Defendant/Respondent - Staff Presents for Commission Consideration the Complainants' Petition for Rehearing or Reconsideration.

COMMISSION ACTION:

On June 12, by Commission Order No. 2019-424, we dismissed the Complaint of the Nollers and the Halwigs against Daufuskie Island Utility Company. On June 21, the Complainants timely filed a Petition for Reconsideration and/or Rehearing. The Company did not file a response to the Petition.

The Complainants seek reconsideration or rehearing on three grounds or matters:

1) The Complainants state that the Commission does have jurisdiction over the matter, because DIUC has failed to provide adequate and proper water and sewer services to the Complainants. However, DIUC began providing water and sewer service to the homeowners in December of 2018. This issue has long-since been rendered moot.

2) The Complainants state that the Commission has jurisdiction to hear this matter in order to remedy the failure of DIUC to submit the Customer Service Agreement for approval (pursuant to S.C. Code Reg. 103-541 and 103-743) before it was entered into with Homeowners. While it is true that this Commission has broad authority over approval of contracts entered into by regulated entities, even if the Commission were to find such actions were violative of properly promulgated regulations, that would still not grant the Commission an ability it does not possess, i.e., we cannot grant monetary damages under an allegedly invalid contract, and in this Petition the Complainants are seeking monetary damages, and that would be for a court of competent jurisdiction, not a proper matter for the South Carolina Public Service Commission.

3) The Complainants believe the Commission has the ability to provide monetary damages to the Complainants. In fact, the Complainants cite S.C. Code Ann. Section 58-5-270 and Section 58-5-710.

Under -270, the Commission certainly does have the jurisdictional authority to hear complaints properly brought before it. However, in this case, monetary damages are being sought – and the Commission simply does not have the authority to grant such an award.

The Commission does have authority under -710 to levy a fine or penalty against a regulated utility if the utility is failing to show cause as to why it is not taking steps to provide adequate water and sewer service. As I mentioned earlier, service has been and is continuing to be rendered to the Complainants. Even if that weren't that case, any fines or penalties levied by this Commission go into the General Fund of the State, not to the Complainants.

For these reasons, I move that the Complainants' Petition for Rehearing and/or Reconsideration should be denied in its entirety.

PRESIDING: RandallSESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER	
BELSER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Recused</u>	
ERVIN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>	Military Leave

(SEAL)

RECORDED BY: J. Schmieding

